

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY JUNE 16, 2016

AMENDED IN ASSEMBLY MAY 17, 2016

AMENDED IN SENATE JANUARY 4, 2016

SENATE BILL

No. 488

Introduced by Senator Block

February 26, 2015

An act to amend Sections 1722, 1751.5, 15001, 15008, 15010, 15011, 15013, 15017, 15020, 15027, 15027.1, 15028, 15031, 15036, 15053, 15056, 15060, and 15062 of, to add Sections 15009.1 and 15059.2 to, to repeal Section 15015 of, and to repeal and add Section 15016 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 488, as amended, Block. Public insurance adjusters.

Existing law, the Public Insurance Adjusters Act, sets forth various requirements with respect to operation as a public insurance adjuster in this state, including, but not limited to, that the person be licensed and licensing qualifications and application requirements for public insurance adjusters, nonresident public insurance adjusters, and interim public insurance adjusters. Any person who knowingly falsifies the fingerprints or photographs submitted as part of the application process is guilty of a felony, and any person who violates any other provision governing public insurance adjusters is guilty of a misdemeanor punishable by a fine not to exceed \$500 or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment. Existing law prescribes a schedule for various public insurance adjuster application, license, and license renewal fees.

This bill would revise and recast the above provisions by, among other things, expanding the categories of persons exempt from the act to include, among others, a person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract and a person who settles subrogation claims between insurers. The bill would make certain categories of persons who are exempt from the existing act, subject to the act, thereby requiring those persons to seek licensure in order to practice as a licensee under the act. The bill would place additional eligibility requirements on applicants for a nonresident license. The bill would also repeal the provisions relating to an interim license, and would instead create an apprentice public insurance adjuster license to facilitate the training necessary to ensure reasonable competency in the responsibilities and duties of a public insurance adjuster, and would set forth the various terms and conditions of the license. The bill would make an apprentice public insurance adjuster subject to a felony conviction if he or she knowingly falsifies the fingerprints or photographs submitted as part of his or her application for a license. The bill would also change various public insurance adjuster application, license, and renewal fees, as prescribed.

Existing law requires an individual who holds a public insurance adjuster license and who is not exempt, as specified, to satisfactorily complete a minimum of 24 hours of continuing education courses pertinent to the duties and responsibilities of a public insurance adjuster license, to be reported to the Insurance Commissioner on a biennial basis in conjunction with his or her license renewal cycle.

This bill would require a person who fails to meet those continuing education and reporting requirements, and who has not been granted an extension of time by the commissioner within which to comply, to have his or her license placed on inactive status until he or she demonstrates to the satisfaction of the commissioner that he or she has complied with all of those requirements, as specified. The bill would also prohibit a licensee who is placed on inactive status from performing specified activities.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

This bill also would incorporate additional changes in Sections 1722 and 1751.5 of the Insurance Code proposed by AB 2588, to be operative if AB 2588 and this bill are both enacted and become effective on or before January 1, 2017, and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that the
2 changes to the fee amounts in this act codify the current fees
3 charged by the Department of Insurance. The fees in the current
4 statutes, as noted in Sections 15031 and 15060 of the Insurance
5 Code, do not reflect the incremental increases approved by the
6 Insurance Commissioner pursuant to Section 12978 of the
7 Insurance Code since 1985.

8 SEC. 2. Section 1722 of the Insurance Code is amended to
9 read:

10 1722. If a natural person while licensed pursuant to the
11 provisions of this chapter or Chapter 6 (commencing with Section
12 1760), Chapter 7 (commencing with Section 1800), or Chapter 8
13 (commencing with Section 1831) of this part, Part 5 (commencing
14 with Section 12140) of Division 2, or Chapter 2 (commencing
15 with Section 15000) of Division 5 enters the military service of
16 the United States and is in that service at a time prescribed for the
17 filing of a renewal application, the filing of that application is
18 waived, and the license held by that licensee at the time of his or
19 her entry into military service shall remain in force during the
20 period of that military service and until the end of the license year
21 in which he or she is released from that service but not for less
22 than six months after that release. During that period the person
23 may secure a license of the type held by him or her on his or her
24 entry into military service upon the filing of an application and
25 paying the fee therefor without the necessity of taking an
26 examination or paying a penalty.

27 SEC. 2.5. Section 1722 of the Insurance Code is amended to
28 read:

29 1722. If a natural person while licensed pursuant to the
30 provisions of this chapter or ~~Chapter 6~~ Chapter 6 (commencing

1 with Section 1760), *Chapter 7* (commencing with Section 1800),
2 or *Chapter 8* (commencing with Section 1831) of this part, ~~or Part~~
3 5 (commencing with Section 12140) of Division ~~2~~ 2, ~~or Chapter~~
4 ~~1~~ (commencing with Section 14000) or *Chapter 2* (commencing
5 with Section 15000) of Division 5 enters the military service of the
6 United States and is in ~~such~~ *that* service at a time prescribed for
7 the filing of a renewal application, the filing of ~~such~~ *that*
8 application is waived, and the license held by ~~such~~ *that* licensee
9 at the time of his *or her* entry into military service shall remain in
10 force during the period of ~~such~~ *that* military service and until the
11 end of the license year in which he *or she* is released from ~~such~~
12 *that* service but not for less than six months after ~~such~~ *that* release.
13 During ~~such~~ *that* period, ~~that~~ *that* person may secure a
14 license of the type held by him *or her* on his *or her* entry into
15 military service upon the filing of an application and paying the
16 fee therefor without the necessity of taking ~~any~~ *an* examination or
17 paying ~~any~~ *a* penalty.

18 SEC. 3. Section 1751.5 of the Insurance Code is amended to
19 read:

20 1751.5. The fees required by this chapter and by Chapter 6
21 (commencing with Section 1760), Chapter 7 (commencing with
22 Section 1800), and Chapter 8 (commencing with Section 1831) of
23 this part, and by Chapter 2 (commencing with Section 15000) of
24 Division 5 are filing fees, no portion of which shall be refunded
25 whether or not the application is acted upon or the examination is
26 taken.

27 SEC. 3.5. *Section 1751.5 of the Insurance Code is amended to*
28 *read:*

29 1751.5. The fees required by this chapter and by Chapter 6
30 (commencing with Section 1760), Chapter 7 (commencing with
31 Section 1800), and Chapter 8 (commencing with Section 1831) of
32 ~~this part~~ *part*, ~~and by Chapter 1~~ (commencing with Section 14000)
33 ~~and Chapter 2~~ (commencing with Section 15000) of Division 5 are
34 filing fees, no portion of which shall be refunded whether or not
35 the application is acted upon or the examination is taken.

36 SEC. 4. Section 15001 of the Insurance Code is amended to
37 read:

38 15001. As used in this chapter, the following terms have the
39 following meanings:

1 (a) “Apprentice public insurance adjuster” means a person who
2 is qualified in all respects as a public adjuster, except as to
3 experience, education, or training.

4 (b) “Business entity” means a corporation, association,
5 partnership, limited liability company, limited liability partnership,
6 or other legal entity.

7 (c) “Catastrophic disaster” means an event that results in large
8 numbers of deaths and injuries; causes extensive damage or
9 destruction of facilities that provide and sustain human needs;
10 produces an overwhelming demand on state and local response
11 resources and mechanisms; causes a severe long-term effect on
12 general economic activity; and severely affects state, local, and
13 private sector capabilities to begin and sustain response activities.
14 A catastrophic disaster shall be declared by the President of the
15 United States or the Governor of the state or district in which the
16 disaster occurred.

17 (d) “Commissioner” means the Insurance Commissioner.

18 (e) “Department” means the Department of Insurance.

19 (f) “Fingerprints” means an impression of the lines on the finger
20 taken for the purposes of identification.

21 (g) “Home state” means the District of Columbia and any state
22 or territory of the United States in which the public insurance
23 adjuster’s principal place of residence or principal place of business
24 is located. If neither the state in which the public insurance adjuster
25 maintains the principal place of residence nor the state in which
26 the public insurance adjuster maintains the principal place of
27 business has a substantially similar law governing public insurance
28 adjusters, the public insurance adjuster may declare another state
29 in which it becomes licensed and acts as a public insurance adjuster
30 to be the “home state.”

31 (h) “Licensee” means a person licensed under this chapter.

32 (i) “Person” includes any individual, firm, company, association,
33 organization, partnership, limited liability company, and
34 corporation.

35 SEC. 5. Section 15008 of the Insurance Code is amended to
36 read:

37 15008. This chapter does not apply to any of the following:

38 (a) An attorney at law admitted to practice in this state, when
39 performing his or her duties as an attorney at law.

(b) Photographers, estimators, appraisers, engineers, and arbitrators, who are employed exclusively by a public insurance adjuster for the purpose of furnishing technical assistance to a licensed public insurance adjuster.

(c) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract.

(d) A person who settles subrogation claims between insurers.

SEC. 6. Section 15009.1 is added to the Insurance Code, to read:

15009.1. (a) The applicant shall complete a 20-hour preclicensing course of study for the lines of authority for a public insurance adjuster license.

(b) An applicant who resides in another state that does not license public insurance adjusters is eligible to designate California as his or her home state. He or she is required to complete the preclicensing education, pass the public insurance adjuster examination, and meet the license application requirements before a license can be issued.

(c) An applicant licensed as a public insurance adjuster in another state is exempt from completing a preclicensing education course to apply for a California public insurance adjuster license if, at the time of application, the applicant's out-of-state license is current or was canceled within 90 calendar days.

SEC. 7. Section 15010 of the Insurance Code is amended to read:

15010. An application shall be verified and shall include all of the following:

(a) The full name and business address of the applicant.

(b) The name under which the applicant intends to do business.

(c) A statement as to the general nature of the business in which the applicant intends to engage.

(d) If the applicant is a person other than an individual, the full name and resident address of each of its partners, officers, and directors.

(e) Two photographs, not older than six months, of the applicant, of a type prescribed by the commissioner, and one classifiable set of his or her fingerprints, to be sent to a live scan fingerprint provider as directed by the department, if fingerprints are not submitted in person with a live scan fingerprinting service provider certified by the Department of Justice.

- 1 (f) A verified statement of his or her experience qualifications.
- 2 (g) Other information, evidence, statements, or documents as
- 3 may be required by the commissioner.

4 SEC. 8. Section 15011 of the Insurance Code is amended to

5 read:

6 15011. Before an application for a license is granted, the

7 applicant shall meet all of the following requirements:

- 8 (a) Be at least 18 years of age.
- 9 (b) Shall not have committed acts or crimes constituting grounds
- 10 for denial of licensure under Section 1668 or 1669.
- 11 (c) Shall have at least two years' experience in the handling of
- 12 loss claims under insurance contracts as determined by regulations
- 13 adopted by the commissioner, and be competent to transact
- 14 business and discharge the responsibilities of a public insurance
- 15 adjuster in a manner as to safeguard the interests of the public. A
- 16 person who has been licensed as an apprentice public insurance
- 17 adjuster, as set forth in Section 15016, for 12 full months, shall be
- 18 considered to have met the two-year experience requirement.
- 19 (d) Maintain an office in the State of California with public
- 20 access during regular business hours.
- 21 (e) Pass an exam given by the commissioner in regard to
- 22 property loss adjusting.
- 23 (f) Post a surety bond executed by a surety company authorized
- 24 to do business in this state in the sum of twenty thousand dollars
- 25 (\$20,000).
- 26 (g) For an organization applicant, designate a licensed individual
- 27 public insurance adjuster to be responsible for the organization's
- 28 compliance with the insurance laws, rules, and regulations of this
- 29 state.
- 30 (h) For an organization applicant, authorize only licensed
- 31 individual public insurance adjusters to exercise authority under
- 32 the organization's license.
- 33 (i) Comply with any requirement to file supplementary
- 34 documents, affidavits, and statements as may be necessary to obtain
- 35 a full disclosure of the information that will aid the commissioner
- 36 in determining whether the prerequisites for the license have been
- 37 met.

38 SEC. 9. Section 15013 of the Insurance Code is amended to

39 read:

1 15013. Each applicant for a license as a public insurance
2 adjuster shall, prior to issuance of the license, personally take and
3 pass, to the satisfaction of the commissioner, an examination given
4 by the department as follows:

5 (a) The examination shall be prescribed by the commissioner
6 and shall be of sufficient scope to reasonably test the applicant's
7 knowledge, among other things, of basic insurance theory, essential
8 elements of contracts, technical competence in the handling of the
9 various lines for which the applicant is being tested, claims ethics
10 and knowledge of the Unfair Practices Act, and the duties and
11 responsibilities of public insurance adjusters under the law.

12 (b) The examination shall be given to applicants under the
13 supervision of the department or the department's examination
14 contractor and shall be in written form.

15 (c) The commissioner shall, within a reasonable period of time,
16 not to exceed 30 days, transmit the results of the examination and
17 action taken on the application to the applicant.

18 (d) In the event an applicant who is otherwise qualified fails the
19 examination, the commissioner may administer a reexamination.

20 (e) The examination shall be given at those times and places
21 within the state as the commissioner deems reasonably necessary
22 to serve the convenience of the department and applicants.

23 SEC. 10. Section 15015 of the Insurance Code is repealed.

24 SEC. 11. Section 15016 of the Insurance Code is repealed.

25 SEC. 12. Section 15016 is added to the Insurance Code, to
26 read:

27 15016. (a) The apprentice public insurance adjuster license is
28 a license to facilitate the training necessary to ensure reasonable
29 competency to fulfill the responsibilities of a public insurance
30 adjuster as defined in Section 15007.

31 (b) The apprentice public insurance adjuster license is subject
32 to the following terms and conditions:

33 (1) The applicant shall submit, with an application for an initial
34 apprentice public insurance adjuster license, an attestation or
35 certification from a licensed public insurance adjuster assuming
36 responsibility for all actions of that applicant.

37 (2) The apprentice public insurance adjuster is authorized to
38 adjust claims only in California.

39 (3) The applicant is required to qualify under subdivisions (a)
40 and (b) of Section 15011.

1 (4) The applicant is required to pay a license fee of one hundred
2 dollars (\$100).

3 (5) The applicant is required to comply with any requirement
4 to file supplementary documents, affidavits, and statements as may
5 be necessary to obtain a full disclosure of the information that will
6 aid the commissioner in determining whether the prerequisites for
7 the license have been met.

8 (6) The apprentice public insurance adjuster shall not be required
9 to take and successfully complete the prescribed public insurance
10 adjuster examination.

11 (7) The licensee shall at all times be an employee of a public
12 insurance adjuster and be subject to training, direction, and control
13 by a licensed public insurance adjuster.

14 (8) The apprentice public insurance adjuster license is for a
15 period not to exceed 12 months, and the license shall not be
16 renewed.

17 (9) The licensee is restricted to participation in factual
18 investigation, tentative closing, and solicitation of losses subject
19 to the review and final determination of a licensed public insurance
20 adjuster.

21 (10) The licensee shall be subject to suspension, revocation, or
22 conditions in accordance with Section 1668.

23 (11) The applicant shall submit two photographs, not older than
24 six months, of the applicant, of a type prescribed by the
25 commissioner, and one classifiable set of his or her fingerprints,
26 to be sent to a live scan fingerprint provider as directed by the
27 department, if fingerprints are not submitted in person with a live
28 scan fingerprinting service provider certified by the Department
29 of Justice.

30 (12) The apprentice public insurance adjuster shall complete
31 the 20-hour prelicensing education course of study as defined in
32 Section 15009.1 during the license period.

33 SEC. 13. Section 15017 of the Insurance Code is amended to
34 read:

35 15017. (a) A nonresident license shall be issued by the
36 commissioner to qualified persons who meet the requirements set
37 forth in Section 15011, and who have appointed the commissioner
38 as an agent for service of process in this state.

(b) Unless denied licensure pursuant to Sections 15018, 15018.5, and 15019, a nonresident person shall receive a nonresident public insurance adjuster license if all of the following apply:

(1) The person is currently licensed in good standing as a public insurance adjuster in his or her home state.

(2) The person has paid the fees required by Section 15060.

(3) The person has provided proof of financial responsibility as required by Section 15033.

(4) The individual has submitted to the commissioner the completed application for licensure.

(5) The person's home state awards nonresident public insurance adjuster licenses to residents of California on the same basis.

SEC. 14. Section 15020 of the Insurance Code is amended to read:

15020. The form and content of the license shall be determined by the commissioner.

SEC. 15. Section 15027 of the Insurance Code is amended to read:

15027. (a) A licensee shall not, directly or indirectly, act within this state as a public insurance adjuster without having first entered into a contract, in writing, on a form approved by the insurance commissioner and executed in duplicate by the public adjuster and the insured or a duly authorized representative. One original contract shall be kept on file by the licensee, available at all times for inspection, without notice, by the commissioner or his or her duly authorized representative, and one original contract shall be given to the insured.

(b) The written contract between the licensee and the insured shall contain each of the following:

(1) Title of "Public Adjuster Contract."

(2) The name, business name, license number, telephone number, and address of the licensee.

(3) The name and address of the insured.

(4) A description of the loss and its location, if applicable.

(5) The name of the insurer and the policy number, if known.

(6) The full salary, fee, commission, or other consideration the licensee is to receive for services under the contract.

(7) A public adjuster's fee, commission, or other valuable consideration shall not cause the insured to receive less than any

1 amount paid to the insured by the insurer prior to the date of the
2 written contract between the insured and the public adjuster.

3 (8) A description of the services to be provided to the insured.

4 (9) Signatures of the licensee and the insured.

5 (10) The date the contract was signed by the licensee and the
6 date the contract was signed by the insured.

7 (11) The following statement: “As a public adjuster, I am
8 required by the California Insurance Code to post a surety bond
9 in the sum of \$20,000 to cover certain kinds of claims made by
10 you, the insured. If you have any questions concerning the surety
11 bond, you may contact the California Department of Insurance
12 Licensing Hotline at 1-800-967-9331 or www.insurance.ca.gov.”

13 (12) A statement of the compensation to the licensee, including
14 the percentage and base to which the percentage applies.

15 (13) A statement that the insured has the right to cancel the
16 contract within three business days of signing it and being provided
17 the signed contract.

18 (c) A contract covered by this section shall not contain a contract
19 term that does any of the following:

20 (1) Allows the licensee’s fee to be collected when money is due
21 from an insurer, but not paid, or allows a licensee to collect the
22 entire fee from the first payment issued by an insurer, rather than
23 as a percentage of each payment issued by an insurer.

24 (2) Requires the insured to authorize an insurer to issue a
25 payment only in the name of the licensee.

26 (3) Imposes late fees or collection costs on the insured.

27 (d) A licensee shall not solicit or attempt to solicit a client for
28 employment during a loss-producing occurrence. A loss-producing
29 occurrence continues to exist when any of the following conditions
30 exist at the property that is subject to solicitation:

31 (1) Any of the circumstances that caused the loss are present at
32 the property where the solicitation would otherwise take place.

33 (2) Emergency responders are present at the property where the
34 solicitation would otherwise take place.

35 (3) An evacuation order is still in effect at the property where
36 the solicitation would otherwise take place.

37 (e) A licensee or any other person or entity offering, for a fee,
38 service regulated by this chapter shall not solicit a policyholder
39 for employment or initiate any contact with a policyholder between

1 the hours of 6 p.m. and 8 a.m., unless requested by the
2 policyholder.

3 (f) A licensee shall not use any form of contract other than that
4 approved by the commissioner and that contains each of the
5 following:

6 (1) A provision allowing the client to cancel the contract by
7 written notice sent or delivered by certified mail, return receipt
8 requested, or other form of mailing that provides proof of mailing,
9 to the licensee by midnight of the third business day after the day
10 on which the client signs a contract that complies with this section
11 and is provided a copy of that signed contract. Each copy of the
12 contract shall contain a completed form, captioned "Notice of
13 Cancellation," that shall be placed at the end of the contract and
14 be separated from the remainder of the contract by a printed line.
15 Nothing shall be printed on the reverse side of the notice form.
16 The notice form shall be completed by the licensee, and shall
17 contain in type of at least 10-point the following statement written
18 in the same language, e.g., Spanish, as used in the contract:

19
20 Notice of Cancellation

21
22
23 _____
24 (Date of Contract)

25 You may cancel this contract within three business days from
26 the above date that you signed the contract and you were provided
27 with a copy of that signed contract, except that, as it pertains to a
28 disaster as defined in Section 15001, your right to cancel is five
29 calendar days without any penalty or obligation to pay your public
30 adjuster, other than for reimbursement of moneys paid by your
31 public adjuster for out-of-pocket emergency expenses for you or
32 on your behalf. If your public adjuster seeks reimbursement from
33 you for out-of-pocket emergency expenses, your public adjuster
34 shall provide you with an itemized statement of those emergency
35 expenses advanced to you or on your behalf if the cancellation is
36 made within the first three business days after the contract was
37 signed by you and you were provided a copy of the signed contract.
38 Nothing in this contract permits your public adjuster to recover
39 any costs, except for out-of-pocket emergency expenses advanced
40 to you.

1 If you cancel, any money or other consideration paid by you will
2 be returned within five business days following the receipt of your
3 cancellation notice, and any security interest arising out of the
4 transaction will be canceled.

5 To cancel this contract, mail or deliver by certified mail, return
6 receipt requested, or other form of mailing that provides proof of
7 mailing, a signed and dated copy of this cancellation notice, or
8 any other written notice, or send a telegram to:

10 _____
11 (name of public adjuster)

12 at

13 _____
14 (address of public adjuster's place of business)

15
16
17 not later than midnight of _____
18 (Date)

19 I hereby cancel this contract _____
20 (Date)

21 _____
22 (Client's signature)

23
24 (2) The statement "WE REPRESENT THE INSURED ONLY"
25 prominently displayed in at least 10-point type.

26 (3) A provision disclosing the percentage of the insured's claim,
27 or other fee, that the licensee will charge for his or her services.
28 The licensee shall obtain the initials of the insured next to this
29 provision.

30 (4) A conspicuous statement in at least 10-point type in
31 immediate proximity to the space reserved for the client's signature,
32 as follows: "You may cancel this contract at any time before
33 midnight of the third business day after the date of this contract.
34 See the notice of cancellation form at the end of this contract for
35 an explanation of this right."

36 (g) A licensee shall not knowingly make any false report to his
37 or her employer or divulge to any other person, except as he or
38 she may be required by law to do so, any information acquired by
39 him or her except at the direction of the employer or a client for
40 whom the information is obtained.

1 (h) A licensee shall not use a badge in connection with the
2 official activities of the licensee's business.

3 (i) A licensee shall not permit an employee or agent in his or
4 her own name to advertise, engage clients, furnish reports, or
5 present bills to clients, or in any manner whatever to conduct
6 business for which a license is required under this chapter.

7 (j) Pursuant to subdivisions (a) and (c) of Section 15006, the
8 commissioner shall have the authority to enforce the provisions
9 of this chapter and prosecute violations thereunder committed by
10 unlicensed persons or entities that hold themselves out or act as
11 public insurance adjusters.

12 (k) For purposes of this section, "business day" shall have the
13 same meaning given to that term in subdivision (e) of Section
14 1689.5 of the Civil Code, as in effect on the operative date of this
15 statute.

16 (l) The contract and the notice of cancellation set forth in
17 paragraph (1) of subdivision (f) shall be written in the same
18 language, e.g., Spanish, as principally used in the negotiation of
19 the contract.

20 (m) Within five business days after a contract has been canceled,
21 the licensee shall tender to the client any payments made by the
22 client and any note or other evidence of indebtedness, including
23 an itemized statement of all amounts tendered to the client.

24 (n) The licensee is not entitled to compensation for services
25 performed prior to cancellation, other than for reimbursement of
26 moneys paid by the licensee for out-of-pocket emergency expenses
27 for the client or on behalf of the client. If the licensee seeks
28 reimbursement from the client for out-of-pocket emergency
29 expenses, and if the cancellation is made within the first three
30 business days after the contract was initiated, the licensee shall
31 provide the client with an itemized statement of those emergency
32 expenses advanced to the client or on behalf of the client by the
33 licensee. Nothing in this subdivision shall permit the licensee to
34 recover any costs, except for out-of-pocket emergency expenses
35 advanced to the client. Any security interest shall be canceled upon
36 cancellation of the contract.

37 (o) Notice of cancellation given by the client need not take the
38 particular form specified in paragraph (1) of subdivision (f). Notice
39 of cancellation, however expressed, is effective if it indicates the
40 intention of the client not to be bound by the contract.

1 (p) Cancellation occurs when the client gives written notice of
2 cancellation by certified mail, return receipt requested, or other
3 form of mailing that provides proof of mailing, to the licensee at
4 the address specified in the contract.

5 (q) Notice of cancellation, if given by mail, is effective when
6 sent by certified mail, return receipt requested, or other form of
7 mailing that provides proof of mailing, properly addressed with
8 postage prepaid.

9 (r) Until the licensee has complied with this section, the client
10 may cancel the contract.

11 (s) The contracts shall be executed in duplicate. The licensee
12 shall retain one original contract, and shall provide the insured
13 with an original contract.

14 (t) The licensee shall provide the client with an original contract
15 and notice of cancellation at the time the client signs the contract.

16 (u) Any confession of judgment or waiver of the provisions of
17 this chapter shall be deemed contrary to public policy and shall be
18 void and unenforceable.

19 (v) Prior to the signing of the contract, the licensee shall provide
20 the insured with a separate printed disclosure document in the
21 following form that bears the name and license number of the
22 licensee:

23
24 “DISCLOSURE
25

26 There are three types of insurance adjusters that could be
27 involved in the processing of your insurance claim. The definitions
28 of the three types are as follows:

29 (1) Public adjusters means the insurance adjusters who do not
30 work for your insurance company. They work for you, the insured,
31 to assist in the preparation, presentation, and settlement of your
32 claim. You hire them by signing a contract and agreeing to pay
33 them a fee or commission based on a percentage of the settlement,
34 or other method of compensation. Public adjusters are required to
35 be licensed, bonded, and tested by the State of California to
36 represent your interest only.

37 (2) Company adjusters means the insurance adjusters who are
38 employees of your insurance company. They represent your
39 insurance company and are paid by your insurance company. They

1 will not charge you a fee and are not individually licensed or tested
2 by the State of California.

3 (3) Independent adjusters means the insurance adjusters who
4 are hired on a contract basis by your insurance company to
5 represent the company in the settlement of the claim. They are
6 paid by your insurance company. They will not charge you a fee.

7 You have the right, but are not required, to use the services of
8 a public adjuster in the preparation and handling of your insurance
9 claim.

10 Public adjusters cannot solicit your business while the loss is
11 underway, or between the hours of 6 p.m. and 8 a.m.

12 Your “Public Adjuster Contract,” with a public adjuster
13 representing you, should clearly indicate the amount of the fee you
14 will be paying to your public adjuster. Your contract, with this fee
15 percentage, should be acknowledged by your initials on the “Public
16 Adjuster Contract.” The salary, fee, commission, or other
17 consideration is to be paid by you (the insured), not the insurance
18 company (insurer).

19 You have the right to cancel the contract with your public
20 adjuster, without any penalty or obligation, within three business
21 days from the date the contract is signed. If the contract was
22 established from a catastrophic disaster as defined in subdivision
23 (c) of Section 15001, the insured has the right to cancel within five
24 calendar days.

25 If you cancel the contract with your public adjuster, any money
26 or other consideration paid by you will be returned within five
27 business days following the receipt of your cancellation notice,
28 and any security interest arising out of the transaction will be
29 canceled.

30 To cancel the contract with your public adjuster, mail or deliver
31 by certified mail, return receipt requested, or other form of mailing
32 that provides proof of mailing, a signed and dated copy of the
33 cancellation notice, or any other written notice, or send a telegram
34 to the public adjuster at the address in the contract.

35 You have the right to, and may, communicate with your
36 insurance company at any time if you feel the need during the
37 claims process.

38 If you have any concerns or questions, the officers at the
39 California Department of Insurance Consumer Hotline are there

1 to help you. Please contact them at 1-800-927-HELP (4357) or
2 www.insurance.ca.gov.”

3
4 (w) No later than three business days after the cancellation has
5 expired, the public adjuster shall notify the insurer, its adjuster, or
6 its attorney, that he or she has entered into a written contract with
7 the insured.

8 (x) If the licensee misrepresents or conceals a material fact from
9 the insured prior to execution of the contract, the insured is entitled
10 to rescind the contract without time limit.

11 (y) Notwithstanding any other provision of this section, if a
12 property loss is included in an area that is subject to a catastrophic
13 disaster, as defined in Section 15001, the insured shall have the
14 right to cancel a contract with a public adjuster within five calendar
15 days of signing it and being provided a copy of the signed contract.

16 SEC. 16. Section 15027.1 of the Insurance Code is amended
17 to read:

18 15027.1. (a) In addition to the restrictions in subdivision (e)
19 of Section 15027, a licensee shall not solicit a contract of
20 engagement for residential properties under this chapter that are
21 included in an area subject to a catastrophic disaster until seven
22 calendar days have elapsed from the conclusion of a loss-producing
23 occurrence as defined in subdivision (d) of Section 15027.

24 (b) Subdivision (a) shall not apply if the licensee is contacted
25 directly by the insured or the insured’s representative.

26 (c) Nothing in subdivision (a) shall prohibit a licensee from
27 providing a policyholder, without making personal contact with
28 the policyholder, with accurate written materials explaining
29 services provided by public insurance adjusters.

30 SEC. 17. Section 15028 of the Insurance Code is amended to
31 read:

32 15028. No person licensed as a public insurance adjuster shall
33 do any of the following:

34 (a) Use any misrepresentation to solicit a contract or agreement
35 to adjust a claim.

36 (b) Solicit or accept remuneration from, or have a financial
37 interest in, any salvage, repair or other firm which obtains business
38 in connection with any claim he or she has a contract or agreement
39 to adjust.

1 (c) Advance moneys to any potential client or insured in order
2 to obtain business.

3 (d) Offer to pay a fee, commission, or other valuable
4 consideration, exceeding one hundred dollars (\$100), to a person
5 for referring a loss unless he or she employs that person to so act
6 for him or her and that person is licensed to act as an adjuster under
7 the provisions of this chapter.

8 (e) Permit an employee or agent, in his or her own name, to
9 advertise, engage clients, furnish reports, present bills to clients,
10 or in any manner conduct business for which a license is required
11 pursuant to this chapter.

12 SEC. 18. Section 15031 of the Insurance Code is amended to
13 read:

14 15031. (a) A licensee shall not conduct a business under a
15 fictitious or other business name unless and until he or she has
16 obtained the written authorization of the commissioner to do so.

17 (b) The commissioner shall not authorize the use of a fictitious
18 or other business name that is so similar to that of a public officer
19 or agency or that is used by another licensee that the public may
20 be confused or misled thereby.

21 (c) The authorization shall require, as a condition precedent to
22 the use of a fictitious name, that the licensee comply with Section
23 1724.5.

24 (d) A licensee desiring to conduct his or her business under
25 more than one fictitious name shall obtain the authorization of the
26 commissioner in a manner prescribed in this section for the use of
27 additional fictitious names.

28 (e) The licensee shall pay a fee of twenty-five dollars (\$25) for
29 each authorization to use an additional fictitious name and for each
30 change in the use of a fictitious business name. If the original
31 license is issued in a nonfictitious name and authorization is
32 requested to have the license reissued in a fictitious business name,
33 the licensee shall pay a fee of twenty-five dollars (\$25) for that
34 authorization.

35 SEC. 19. Section 15036 of the Insurance Code is amended to
36 read:

37 15036. In lieu of the surety bond required by this chapter there
38 may be deposited with the State of California the sum of twenty
39 thousand dollars (\$20,000) in cash, or evidence of deposit of the
40 sum of twenty thousand dollars (\$20,000) in banks authorized to

1 do business in this state and insured by the Federal Deposit
2 Insurance Corporation, or investment certificates or share accounts
3 in the amount of twenty thousand dollars (\$20,000) issued by a
4 savings association doing business in this state and insured by the
5 Federal Deposit Insurance Corporation, or evidence of a certificate
6 of funds or share account of the sum of twenty thousand dollars
7 (\$20,000) in a credit union as defined in Section 14002 of the
8 Financial Code whose share deposits are guaranteed by the
9 National Credit Union Administration or guaranteed by any other
10 agency approved by the Department of Business Oversight.

11 SEC. 20. Section 15053 of the Insurance Code is amended to
12 read:

13 15053. A person who knowingly falsifies the fingerprints or
14 photographs submitted under subdivision (f) of Section 15010 or
15 paragraph (12) of subdivision (b) of Section 15016 is guilty of a
16 felony. A person who violates any of the other provisions of this
17 chapter is guilty of a misdemeanor punishable by a fine not to
18 exceed five hundred dollars (\$500) or by imprisonment in a county
19 jail not to exceed one year, or by both that fine and imprisonment.

20 SEC. 21. Section 15056 of the Insurance Code is amended to
21 read:

22 15056. (a) Except as otherwise provided in this article, an
23 expired license or branch office certificate may be renewed at any
24 time within one year after its expiration on the filing of an
25 application for renewal on a form prescribed by the commissioner,
26 and the payment of a renewal fee in effect on the actual renewal
27 date. If the license or certificate is renewed after its expiration, the
28 licensee, as a condition precedent to renewal, shall also pay the
29 delinquency fee prescribed by this chapter. Renewal under this
30 section shall be effective on the date on which the application is
31 filed, on the date on which the renewal fee is paid, or on the date
32 on which the delinquency fee, if any, is paid, whichever occurs
33 last. If so renewed, the license or certificate shall continue in effect
34 through the date provided in Section 15054 that next occurs after
35 the effective date of the renewal, when it shall expire if it is not
36 again renewed.

37 (b) Renewal of a license or certificate does not prohibit the
38 bringing of disciplinary proceedings for an act committed before
39 the effective date of the renewal.

1 SEC. 22. Section 15059.2 is added to the Insurance Code, to
2 read:

3 15059.2. A person who fails to meet the requirements imposed
4 by Section 15059.1, and who has not been granted an extension
5 of time by the commissioner within which to comply, shall have
6 his or her license placed on inactive status until he or she
7 demonstrates to the satisfaction of the commissioner that he or she
8 has complied with all of the requirements of this article and all
9 other applicable law. A licensee placed on inactive status may not
10 perform the activities described in Section 1631. If a person cannot
11 perform the requirements of this article due to a disability or
12 inactivity due to special circumstances, the commissioner shall
13 provide a procedure for the person to place his or her license on
14 inactive status until the person demonstrates to the satisfaction of
15 the commissioner that he or she has complied with all of the
16 requirements of this article for the period of disability or inactivity.

17 SEC. 23. Section 15060 of the Insurance Code is amended to
18 read:

19 15060. The amount of fees prescribed by this chapter is that
20 in the following schedule:

21 (a) The fee for the qualifying examination for an original license
22 is sixty-two dollars (\$62).

23 (b) The application fee for an original branch office certificate
24 is thirty-five dollars (\$35).

25 (c) The fee for an original license application is two hundred
26 forty dollars (\$240). If the license will expire less than one year
27 after its issuance, then the fee is an amount equal to 50 percent of
28 the renewal fee in effect on the last regular renewal date before
29 the date on which the license is issued.

30 (d) The renewal fees are as follows:

31 (1) For a license as a public insurance adjuster, two hundred
32 forty dollars (\$240).

33 (2) For a branch office certificate, fifty dollars (\$50).

34 (e) The fee for replacing an identification card is twenty-five
35 dollars (\$25).

36 (f) The delinquency fee shall be 50 percent of the renewal fee
37 in effect on the date of expiration.

38 (g) The fee for reexamination of an applicant is twenty-five
39 dollars (\$25).

1 SEC. 24. Section 15062 of the Insurance Code is amended to
2 read:

3 15062. Application or license fees shall not be refunded
4 pursuant to Section 1751.5.

5 SEC. 25. (a) *Section 2.5 of this bill incorporates amendments*
6 *to Section 1722 of the Insurance Code proposed by both this bill*
7 *and Assembly Bill 2588. It shall only become operative if (1) both*
8 *bills are enacted and become effective on or before January 1,*
9 *2017, (2) each bill amends Section 1722 of the Insurance Code,*
10 *and (3) this bill is enacted after Assembly Bill 2588, in which case*
11 *Section 2 of this bill shall not become operative.*

12 (b) *Section 3.5 of this bill incorporates amendments to Section*
13 *1751.5 of the Insurance Code proposed by both this bill and*
14 *Assembly Bill 2588. It shall only become operative if (1) both bills*
15 *are enacted and become effective on or before January 1, 2017,*
16 *(2) each bill amends Section 1751.5 of the Insurance Code, and*
17 *(3) this bill is enacted after Assembly Bill 2588, in which case*
18 *Section 3 of this bill shall not become operative.*

19 ~~SEC. 25.~~

20 SEC. 26. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.